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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,712	09/21/2001	Stan J. Simpson	08998-00693	4279
37705	7590	11/17/2004	EXAMINER	
GREENBERG TRAURIG, LLP 1200 SEVENTEENTH STREET, SUITE 2400 DENVER, CO 80202			TRAN, THUY VAN	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/960,712	SIMPSON ET AL.	
	Examiner	Art Unit	
	Thuy v. Tran	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 20 August 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 15-31 and 33-43 is/are pending in the application.

4a) Of the above claim(s) 15,30 and 31 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 16-29 and 33-43 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 20 August 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 16-28 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 5-70092 A (JP "092).

JP '092 discloses a mast for forklift truck comprising a carriage assembly 3, Fig. 6, having a first upper roller 6a, a first lower roller 6b, a second upper roller 6a, and a second lower roller 6b and a front surface 7, and a first rail section 10 including a first rail 1 and a second rail 1 positioned substantially parallel to each other, each rail 1 having a back inner surface 5 being substantially parallel to the front surface, a front inner surface (the opposed surface) and a lateral inner surface (middle portion) adjacent to the front inner surface and the lateral inner surface is substantially normal to the front surface, wherein the angle between the first upper roller 6a and the front surface 7 is greater than 90.5° and about 93.5°, and the angle between the front inner surface 5 and the lateral inner surface is greater than about 90.5° and about 93°, and a portion of the width of the first rail section is reduced.

Claims 16-21, 24, 25, 28, 29, 34, 37-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Yarris 4,124,104.

Yarris '104 discloses a mast for fork lift comprising a carriage 24, having a first upper roller 68, a first lower roller 70, a second upper roller 68, a second lower roller 70 and a front surface, a first rail section including a first and second rail 41 positioned substantially parallel to each other, each rail comprises a back inner surface being substantially parallel to the front surface, a lateral inner surface (middle portion) being substantially normal to the front surface, and a front inner surface adjacent to the lateral inner surface, wherein the respective angle between the first and second upper roller surface with respect to the front surface is about 92.5° to about 93.5°.

With regard to the limitation "the angle between said front inner surface of said first rail and said lateral inner surface is greater than about 90.5°", as broadly claimed, since 89.9° is about 90.5° and the

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angle between the front inner surface and the lateral inner surface as shown in Yarris appears to be 90°, thus 90° is greater than about 90.5°.

Claims 16-29 and 33-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Yarris 4,035,040.

Yarris '040 discloses a mast for fork lift comprising a carriage assembly including a first upper roller 10, a first lower roller, a second upper roller, a second lower roller (shown in Wagner et al. 3,851,732 which is incorporated herein), and a front surface 14, a first rail section comprising a first rail 12 and a second rail (not shown) each rail having a back inner surface 22 being substantially parallel to the front surface, a lateral inner surface 18 being substantially normal to the front surface 14, and a front inner surface 20 adjacent to the lateral inner surface, wherein the angle between the first upper roller 10 and the front surface 14 is in the range of about 92.5° to about 93.5°, and the angle between the front inner surface 20 and the lateral inner surface 18 is in the range of about 91.5° to about 92.5° and wherein a portion of the width of the rail section (between back inner surface 22 and lateral inner surface 18) is reduced.

Claims 16-19, 22, 23, 26-29, 33-36, 38 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly, Jr. RE. 30,815.

Kelly, Jr. '815 discloses a mast for fork lift comprising a carriage 14, having a first upper roller 52, a first lower roller 54, a second upper roller 52, a second lower roller 54 and a front surface, a first rail section 24 including a first and second rail 30c positioned substantially parallel to each other, each rail comprises a back inner surface being substantially parallel to the front surface, a lateral inner surface being substantially normal to the front surface, and a front inner surface adjacent to the lateral inner surface, wherein the angle between the front inner surface and the lateral inner surface is in the range of about 91.5° to about 92.5°, and wherein a portion 44b, Figure 2, of the width of the first rail section is reduced.

With regard to the limitation "the angle between said first/second upper roller and said front surface is greater than about 90.5°", as broadly claimed, since 89.9° is about 90.5° and the angle between the upper roller and the front surface as shown in Kelly reference appears to be 90°, thus 90° is greater than about 90.5°.

Response to Arguments

Applicant's arguments filed August 20, 2004 have been fully considered but they are not persuasive.

Applicant argues that none of the cited references discloses or suggest "a back inner surface that is substantially parallel to the front surface" or "a lateral inner surface that is adjacent to the front inner surface and that is substantially normal to the front surface". JP '902 clearly shows in Fig. 6 that the back inner surface (left hand side portion of rail 1) is substantially parallel to the front surface 7, and the lateral inner surface (middle portion) is substantially normal to the front surface. Yarris '104, Yarris '040 and Kelly '815 separately discloses such features as the cited the respective Figure(s).

In response to Applicant's argument with regard to the newly added recitation "the front inner surfaces of the first and second rails of the inner rail section which are positioned relative to the front surface of the carriage assembly at an angle greater than about 90.0°" in claim 33. The inner rail section and the carriage are movable relative to another. Thus, at one point during the lifting and lowering, the angle between the front inner surfaces and the front surface are greater than about 90.0°. Further, as mentioned in the above paragraph, if a reference shows an angle of 90° then it would meet the "greater than about 90°" limitation since 89.9 is about 90.0°. Thus, 90° would be greater than about 90.0°

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy v. Tran whose telephone number is 703-308-2558. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TVT (TVT)



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